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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/503,967	02/14/2000	Jean Gobert	PHF 99,513	7347

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

BALI, VIKKRAM

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 12/29/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/503,967

Applicant(s)

GOBERT, JEAN

Examiner

Vikkram Bali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2 and 3 is/are allowed.
- 6) ☒ Claim(s) 1,4,5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

In response to the amendment filed on 8/18/2003, all the amendments have been entered and the action follows:

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 5 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The subject matter of "a computer program product" is non-statutory subject matter.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Niehaus (US 5422827).

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With respect to claim 1 (amended), Niehaus discloses a filtering of the collection in to valid input samples and non valid input samples on the basis of auxiliary data, (see col. 7, lines 40-43, a controller with the commands to do the scaling and sharpness, i.e. instructions for performing the method on a processor (as claimed in claim 5), see figure 2, steps 203, 205, 206, 207, 208, step 203 - receive new sample "collection of samples" and the receive sample in step 203 is read as the "input" of the sample data; step 205 - retrieve coefficients is read as "auxiliary data"; step 206 - apply coefficient to sample is read as "on the basis"; step 207 and step 208 - delete invalid samples and store valid samples is read as distinguishing the data into "non valid" and "valid samples"); deriving filtered samples associated with valid samples, (see col. 9, line 63 through col. 10, line 5, the new or desired curve on the basis of the factor is gotten for the outputted valid sample) as claimed.

Claim 4 (amended) is rejected for the same reasons as set forth for the claim 1, because claim 4 is claiming an apparatus for the method claimed in claim 1.

Claim 5 (amended) (even though the claim 5 is presently considered non statutory is rejected over the prior art, the examiner assuming applicant will amend the claim to overcome the 101 rejection and must make the claim statutory) is rejected for the same reasons as set forth for the claim 1, because claim 5 is claiming the computer program the method claimed in claim 1.

Allowable Subject Matter

4. Claims 2 and 3 are allowed.

5. The following is an examiner's statement of reasons for allowance:

Claims 2 and 3 are allowed because prior art taken alone or in combination fails to suggest a method of filtering the collection of sample data wherein the data is distinguished in to the valid input or the non valid input sample data on the basis of auxiliary data, a padding value is calculated on the basis of the valid samples in the cluster of samples and generating a set of filter values for each valid sample by taking the value of the sample and by raking the padding value for each non valid sample and finally deriving a filtered sample from the cluster of filter input values in combinations with the other elements of the claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

6. Applicant's arguments filed 8/18/2003 have been fully considered but they are not persuasive. In the response the applicant argues that prior art of record (Niehaus)

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does not disclose, "distinguishing between valid input samples and non valid input samples" (see page 4, lines 14-15 of Remarks). Examiner disagrees and indicates that the teachings of prior art (col. 8, lines 42-45) clearly disclose detecting invalid samples by determining valid and invalid samples. Reciting "valid input samples" and "non-valid input samples" does not limit the distinguishing process to a specific stage (e.g., distinguishing valid and non-valid in a pre processing stage).

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vikkram Bali whose telephone number is 703.305.4510. The examiner can normally be reached on 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amelia Au can be reached on 703.308.6604. The fax phone numbers for the organization where this application or proceeding is assigned are 703.872.9306 for regular communications and 703.872.9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.0377.

Vikkram Bali
Examiner
Art Unit 2623



vb
December 18, 2003